

All photos by Michael Davidson

architecture The art and science of designing and constructing buildings adapted to their purposes, one of which is beauty. (Milwaukee, Wisc.)

Why Definitions?

By Harvey S. Moskowitz, FAICP & Carl G. Lindbloom, AICP

The term “glossary” is defined as an “alphabetical list of terms: an alphabetical collection of specialist terms and their meanings, usually in the form of an appendix to a book.” (Microsoft(r) Encarta(r) Reference Library 2003 (c) 1993-2003 Microsoft Corporation).

A *Glossary of Zoning, Development, and Planning Terms* (The Glossary) (Planning Advisory Service Report No. 491/492), edited by Michael Davidson and Fay Dolnick, is just that—a collection of terms and words used in all aspects of planning, including land use, architecture, real estate, environment, law, science, economics, government, and engineering. In fact, the editors of *The Glossary* sum up the breadth of planning by stating: “What has amazed all of us (editors and research assistants) is the incredible breadth of what planners are expected to know and have to deal with on a daily basis.” It does give validity to what Rutgers University’s premiere planning professor, Edward D. Wilkens, observed: that planning was indeed “the field for the Renaissance Man.”

The editors of *The Glossary* decided to give the new edition, due for publication this month, a different name: *A Planners Dictionary* (Planning Advisory Service Report No. 518/519). They felt it was more in keeping with the fact that a dictionary captures not just the technical terms used in planning, zoning, and development, but also the concepts that planners, public officials, and the public address in any consideration of community building. But, as Shakespeare noted, a rose by any other name is still a rose, and this PAS Report, whether called a glossary or dictionary, fills a valuable niche in any planner’s reference library.

The extensive list of terms defined in *The Dictionary* were compiled from many sources. For some of the terms, several sources are used to provide different interpretations for the same term. All sources are cited, with commentary and cross-references where appropriate.

As noted in the first edition of our book, *The Illustrated Book of Development Definitions* (Center for Urban Policy Research, 1993), “most zoning or land development ordinance definitions are ‘borrowed,’ ‘inherited,’ or ‘stolen’ from other ordinances.” Jason Wittenberg, author of the chapter “The Dynamics of Off-Street Parking” in *Parking Standards* (Planning Advisory

Service Report No. 510/511), edited by Michael Davidson and Fay Dolnick, concurs with respect to off-street parking requirements. Wittenberg states:

The most popular method for determining off-street parking requirements may be to borrow from the ordinances of other communities.

But he also acknowledges another caveat that is pertinent to the use of *The Dictionary*, as follows:

Adoption of another jurisdiction’s standards, without consideration of local socioeconomic standards, comprehensive plan, political environment, the input of the citizens for the community, and legal review according to state enabling legislation, among other issues, may result in standards that just don’t fit.

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We see *The Dictionary* as an important checkpoint in the preparation of ordinances and various other documents that control and shape the built environment. At the very least, it gives the drafter a comprehensive and far-reaching universe of words and phrases that may be needed for understanding planning documents and for development ordinances to be effective. Indeed, we found *The Glossary* a useful resource in researching definitions for our most recent edition. This issue of *Zoning News* will discuss why definitions may be considered by some to be the backbone of the planning profession.

What is a Definition?

The *Oxford Universal Dictionary* defines definition as "A precise statement of the essential nature of a thing." (There are four other definitions that relate to the root "define" which do not apply here.) *Webster* elaborates somewhat by defining it as "a word or phrase expressing the essential nature of a person or thing or class of persons or things, a statement of the meaning of a word or word group."

In the context of the land development ordinance, definitions have three purposes:

Definitions simplify the text. In *The Illustrated Book of Development Definitions*, we note that a definition makes it possible to combine long phrases, lists of words, or similar terms into one or two words, which in the zoning context may be treated alike. For example, rather than repeat "application for site plan approval," "permission to build in a floodplain," "soil removal application," or "application for subdivision" in an ordinance regulating development, the phrase "application for development" can be defined to mean all of the preceding terms. Similarly, the term "manufacturing" is defined to mean: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products inducing the assembling of component parts, manufactured products, and the blending of materials such as lubricating oils, plastic, resins, or liquors.

The ordinance would be considerably longer if the words used to define manufacturing had to be repeated throughout the ordinance whenever the term "manufacturing" was used.

Definitions establish the precise meaning of a word or phrase that may be subject to differing interpretations. Precision eliminates ambiguity and vagueness. It focuses on the essential elements of a word or phrase and clearly marks off and limits its application or

interpretation. For example, a zone may permit light industrial uses. Is it not true that everyone knows the nature of light industry? Industry means work. Perhaps it also means manufacturing. Is warehousing included? *Webster* has five definitions of industry, and the North American Industry Classification System (NAICS), which replaced the *Standard Industrial Classification Manual* in 1997, lists 1,179 industries, or as the manual defines it, "...the entire field of economic activities. . . ."

Even if we define industry as manufacturing (defined by NAICS as "establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products (including) assembling of component parts"), we still have the difficult task of defining light manufacturing. Does light refer to the end product, the raw material, or the machines used in the process? Or does it refer to something else completely?

By precisely defining light manufacturing in an ordinance, we eliminate the vagueness and ambiguity that, at best, results in confusion and, at worst, ends up in costly lawsuits and delays.

Definitions transform technical terms into an understandable, usable terminology. Definitions give meaning to sometimes abstract, technical terms for the purpose of controlling and guiding development.

For example, when referring back to light manufacturing, the term "light" may be defined in more than a few contexts, including trip generation, bulk controls, water runoff, and nuisance characteristics. Each of these terms has its own definition, and the one for light manufacturing should refer to the ordinance for the standards that distinguish it from medium or heavy manufacturing. Thus, one nuisance characteristic may be noise, and the standard for light manufacturing as it relates to noise can include maximum day and night decibel levels and specific measuring points. Another is light and glare, which are regulated in terms of maximum footcandle and where observed.

What Definitions are Not

Definitions simplify, clarify, and translate. What should they not do?

Definitions should not contain the control standards that regulate the defined word or phrase. For example, most ordinances attempt to define home occupations in terms of the standards under which the home occupation can operate. These standards usually include the percentage of floor area that can be occupied, limitations on nonresident employees, parking requirements, lots sizes, and sign controls.

These control elements do not belong in the definition; rather, they belong in the body of the ordinance and may vary depending on the zone in which the home occupation is permitted. To locate the standards in the definition precludes this flexibility. (Because *The Dictionary* offers its definitions verbatim—or near verbatim—from its sources, the reader may find that some of the defined terms may violate this caveat and include control elements).

Definitions should not run counter to the generally accepted meaning of words and phrases. Cox (2003, p. 114) cites a New Jersey case (*Essex County Retail, etc., v. Newark, etc. Bev. Control*, 77 N.J. Super. 70, 77 (App. Div. 1962)) where the court says:

Ordinances are to receive a reasonable construction and application, to serve the apparent legislative purpose. We will not depart from the plain meaning of language which is free of ambiguity, for an ordinance must be construed according to the ordinary meaning of its words and phrases. These are to be taken in the ordinary or popular sense, unless it plainly appears that they are used in a different sense.

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(Planning Advisory Service Report No. 72) summarized what ordinance drafters should consider about definitions. The recommendations from that 1955 report include the following:

- However, by the same token, common words and phrases often take on a specific meaning in a technical field that may differ substantially from the generally accepted or public definition. Examples include affordable housing, cellar, basement, or home occupation. The courts also may restrict or expand commonly accepted definitions, such as “family.” The traditional definition of family was persons related by blood and/or marriage and (usually) one or two unrelated individuals. Subsequent court decisions have altered the meaning of family in land-use applications by defining it to include an unlimited number of nonrelated individuals living as a single housekeeping unit.

Illustrations can be an important aid in interpreting definitions. For example, minimum front, rear, and side yard setbacks are easy to determine when applied to the standard rectangular lot. But how are they applied to corner and odd-shaped lots? The easiest and clearest way is through the use of an illustration. In the *Cranbury Township, New Jersey, Land Development Ordinance* (Figure 2), the front, side, and rear yards of nine irregularly shaped lots are illustrated. Consider the difficulty in trying to put into words how minimum setbacks are applied in these cases.

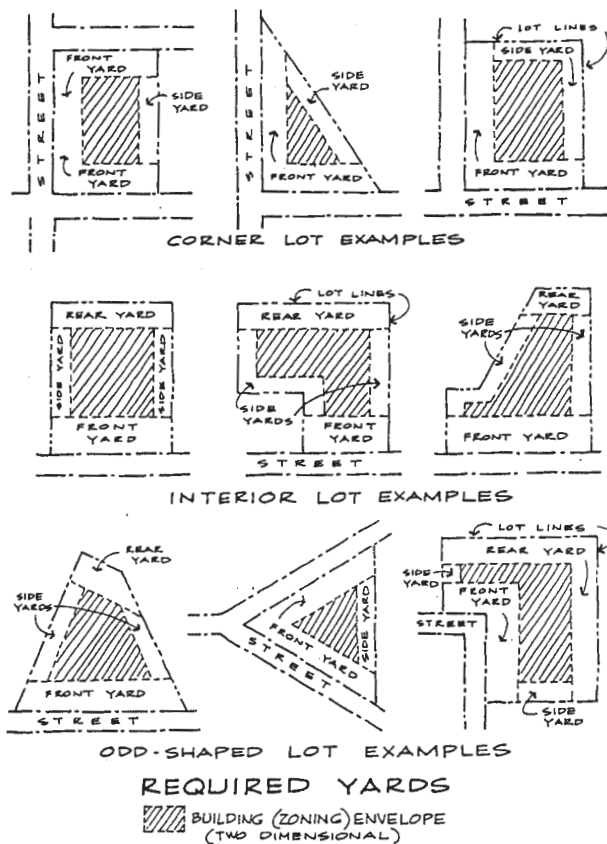
the proverbial thousand words over a single picture. The omission of illustrations—even if only used to highlight a definition or standard—is not in keeping with the country’s first zoning ordinance, the *1916 New York City Zoning Ordinance*, where a series of three graphic overlays was used for height, use, and bulk. Even today, the heart of a zoning ordinance is the district or zone map. Subdivision and site plan regulations are primarily concerned with design or graphic representations of what eventually will be three-dimensional products. Illustrations can greatly simplify how standards should be applied, particularly where the lot or parcel is irregularly shaped or where there are a number of variables preset, each of which may have an impact on how the ordinance might apply in a specific situation.

Two development ordinance examples that use illustrations successfully, integrating text and pictures, are the SmartCode unified development ordinance (Figure 1), by Duany Plater-Zyberk & Company (DPZ) and the *Coffee Creek Center Design Code Book* (Figure 3) developed by the Lake Erie Land Company of Chesterton, Indiana. The SmartCode effectively uses illustrations to provide a template for the built environment (including preserved and environmentally sensitive areas) in a variety of growth patterns from rural to urban and to individual structures and their settings. The diagrams include standards for private and public frontage, building height, land assembly, civic space, building disposition, streetscapes and frontages, curb and turning radii, frontage and lot lines, site layers, and building height elements. The *Coffee Creek Center Design Code Book* combines sketches, detailed drawings, and photographs along with the written text to illustrate specific site design details, including overall land planning, home types, siting, architectural details, building lines, parking, signs, landscaping, lighting, and infrastructure such as roads, drainage, and environment.

	R U R A L										U R B A N									
Transsect Zone	T1 T2		T3 T4		T3 T4 T5		T4 T5		T5 T6		T5 T6									
PUBLIC FRONTAGE TYPE	Highway Rural Road		Standard Road Residential Road		Residential Street Avenue Boulevard		Residential Street Avenue Boulevard		Standard Street Avenue Boulevard		Commercial Street Avenue Boulevard									
a. Frontage Assembly: The principal variables are the type and dimension of curbs, walks, planters and street trees.																				
Total Width	16-24 feet		12-24 feet		12-16 feet		12-16 feet		12-24 feet		18-32 feet									
b. Curb: The detailing of the edge of the vehicular pavement incorporating drainage																				
Type Radius	Open swale 10-30 feet min.		Open swale 10-30 feet min.		Raised curb 5 - 20 feet		Raised curb 5 - 20 feet		Raised curb 5 - 20 feet		Raised curb 5 - 20 feet									
c. Walk: The pavement dedicated exclusively to pedestrian activity.																				
Type Width	Path optional 4 feet-8 feet		Path 4 feet-8 feet		Sidewalk 4 feet-10 feet		Sidewalk 4 feet-8 feet		Sidewalk 8 feet-16 feet		Sidewalk 12 feet-24 feet									
d. Planter: The layer which accommodates street trees and other landscape																				
Arrangement Species	Clustered		Clustered		Regular Alternating		Regular Single		Regular Continuous planter		Opportunistic Tree wall									
Planter Type	Multiple		Multiple		Continuous planter		Continuous planter		Continuous planter		Tree wall									
Planter Width	8 feet-16 feet		8 feet-16 feet		8 feet-12 feet		8 feet-12 feet		4 feet-6 feet		4 feet-6 feet									

Both the SmartCode and *Coffee Creek Center Design Code Book* use illustrations as specific regulations. *The Illustrated Book of Development Definitions* uses illustrations to interpret the definitions in various applications.

FIGURE 2



General Comments

Do not define it if it is not used in the ordinance. There are two schools of thought on whether to define a word or phrase that is not included in the ordinance. For example, in a rural farm community, should the term “high-rise apartment” be defined? Conversely, should commercial farming be defined for urban areas?

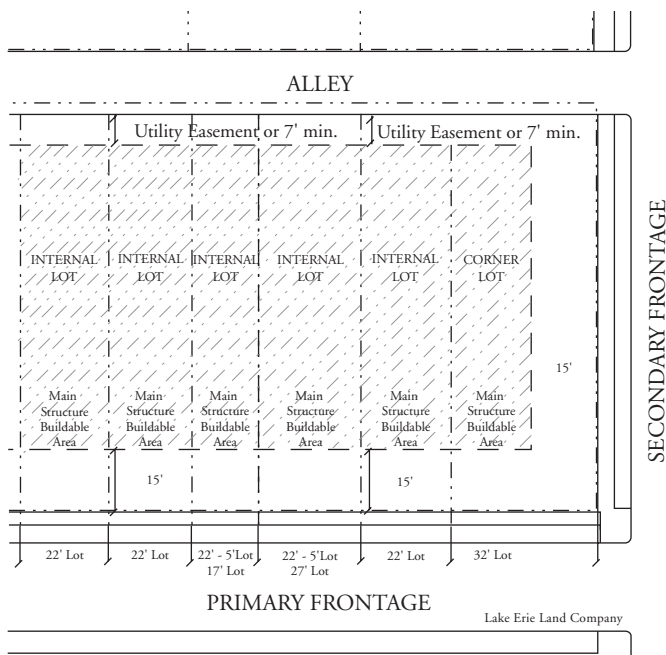
Many drafters believe that if there is a possibility that the phrase will be used in the future, it should be included. The authors are of another opinion. If it is not used, either as a permitted use or one specifically excluded, it should not be defined. In a rural farm community where high-rise apartments are not permitted, there is no reason to include the definition anywhere in the ordinance. Conversely, there would be no need to define a quarry in an ordinance regulating development in a built-out city. Where there may be a question as to whether a use is allowed in a particular zone, defining the use gives credence to the position that the intent is to allow it.

Use federal, state, or county definitions if available. A growing number of land-use categories are no longer under local control, or they require federal, state, or county licenses or approvals. Thus, to the extent possible, local definitions should be in

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FIGURE 3



Build-to lines illustrated above are based upon frontage on a primary street.
Build-to lines may differ based on § 5.3.B.

2.8.A Dimensions

- Lot Width: 22 feet (32 feet if on corner) (\pm 5 feet).
- Minimum Size, Main Structure (excl. Out Buildings): 720 square feet, excluding basements.
- Maximum Height: 35 feet. (When a Boulevard is the Primary or Secondary Frontage, then the minimum height of the portion of the building on the Building Line shall be the greater of 25 feet or two stories.

2.8.B Siting

- Setback lines (measured from the building wall, provided that any roof overhang or other protrusions shall not encroach on any setbacks established through the PUD Ordinances (see Appendix D)
 - Side: 0 feet.
 - Rear: great of (a) any rear entity easement or (b) 7 feet from property line.
- Minimum percentage of Lot Width Occupied by Main Structure: 100 percent.
- Minimum percentage of Main Structure on Building Line: 50 percent.
- Walls built three feet or less from property line must be one-hour construction, with penetrations as permitted in the Town Code, but none below six feet.
- Secondary Frontage:
 - Minimum percentage of Secondary Frontage Occupied by Main Structure and Out Building: 50 percent.
 - Minimum percentage of Main Structure and Out Building on the Building Line: 50 percent.

agreement with those of the higher levels of government. This more clearly defines the intent of the framers in allowing a specific use or activity in a zone. For example, if the local intent is to permit elementary schools in residential neighborhoods, the definition can state, “any school licensed by the state and meeting the state requirements for elementary education.” This eliminates private business schools or vocational schools. Keep in mind, however, that with some definitions, including public utilities and essential services, federal or state-level definitions would not apply locally.

Use nationally accepted definitions if available. Prior to 1997, the best source of use definitions was the *Standard Industrial Classification Manual (SIC)*. The *SIC* grouped all land-use activities into a series of categories, from very broad activity classes (such as residential, manufacturing, trade, services, etc.) to specific and detailed land-use categories. NAICS classifies business establishments into 20, two-digit, broad categories (compared with

A Selection of Definitions

(from APA's forthcoming A Planners Dictionary; PAS Report No. 518/519)

■ **bicycle commuter facilities** Shower(s) and changing room(s) provided in commercial and public buildings employing at least 25 people. Such facilities may be part of regular bathroom facilities. (*Deschutes County, Oreg.*)

■ **big-box retail establishment** A retail structure or group of structures [having] a total in excess of 25,000 square feet of gross floor area. (*Concord, N.C.*)

■ **body piercing** The intentional act of any person or persons of piercing any part of the body of another person or persons, other than the ears, for the purpose of allowing the insertion of earrings, jewelry, or similar objects into the body. (*Concord, N.C.*)

■ **contextual zoning** Zoning that regulates the height and bulk of new buildings, their setback from the street line, and their width along the street frontage, to conform with the character of the neighborhood. (*New York City, N.Y.*)

■ **cultural landscape** A natural setting, the appearance of which represents the historic settlement pattern and development of a community. Such settings, which may or may not contain an historic structure, often reflect certain time periods of local significance. When applied to historic structures, a cultural landscape also includes the setting of the structure and its contribution to the integrity of the structure. Examples include, but are not limited to, historic structures surrounded by large specimen trees, scenic vistas encompassing historic farmsteads and hedgerows, stone walls or ruins against a backdrop of equestrian activity and rural roads framing historic villages. (*Willistown Township, Pa.*)

■ **dog day care facility** A facility providing such services as canine day care for all or part of a day,

■ **incentive zoning** The granting by the approving authority of additional development capacity in exchange for a public benefit or amenity. A quid pro quo—more development for a benefit, the need for which may not necessarily be created by the development itself. (*Clarkdale, Ariz.*)

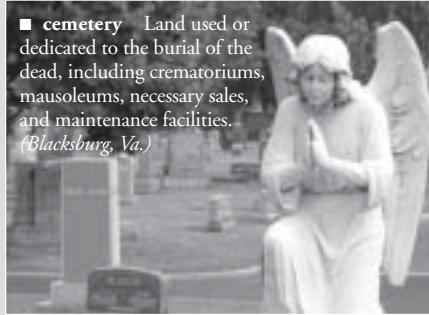
■ **infill development** The addition of new housing or other buildings on scattered vacant sites in a built-up area. (*Temple Terrace, Fla.*)

■ **live/work use** A residential occupancy, by a single housekeeping unit, of one or more rooms or floors in a building which includes: (1) cooking space and sanitary facilities in conformance with city building standards; and (2) adequate working space accessible from the living area, reserved for, and regularly used by, one or more persons residing therein. (*San Jose, Calif.*)

■ **market study** The process of analyzing and interpreting data relating to a proposed shopping center, including extent of the trade area to be served, characteristics of the population conditions, competitive influences of other shopping centers,



■ **balcony** A platform that projects from the wall of a building and is surrounded by a railing or balustrade. (*Park City, Utah*)



■ **cemetery** Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. (*Blacksburg, Va.*)



■ **banner sign** A sign with or without characters, letters, illustrations, or ornamentalations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing (*Duluth, Ga.*)

■ **bulk retail** A retail use that is housed in a warehouse-style building, is developed as a warehouse-style building both on the interior and exterior, sells primarily institutional-sized or multi-pack products in bulk quantities, has limited hours of operation, and is not part of a larger shopping center. (*Beaverton, Oreg.*)

■ **commercial agricultural enterprise** Farm operations which will: (A) contribute in a substantial way to the area's existing agricultural economy; and (B) help maintain agricultural processors and established farm markets. When determining whether a farm is part of a commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered. (*Deschutes County, Oreg.*)

■ **community character** The image of a community or area as defined by such factors as its built environment, natural features and open space elements, type of housing, architectural style, infrastructure, and the type and quality of public facilities and services. (*Brunswick, Ohio*)

obedience classes, training, grooming and/or behavioral counseling, provided that overnight boarding is not permitted. (*Fort Collins, Colo.*)

■ **formula business** A business that is required by contractual or other arrangement to maintain any of the following: standardized services, décor, uniforms, architecture, signs, or other similar features. This shall include but not be limited to retail sales and service, visitor accommodations, and wholesale and industrial operations. (*Warner, N.H.*)

■ **geographic information system (GIS)** A computer-based system for generating maps comprised of different informational elements such as the location of groundwater recharge areas with the location of industrial sites. (*Washtenaw County, Mich.*)

■ **greenfield development** Development on undeveloped parcels undeveloped parcels not surrounded by existing development, or on large parcels surrounding partially developed areas or undeveloped areas. (*Concord, N.C.*)

adequacy of the site, and any other factors that might influence the success or failure of the center. (*Waukesha, Wisc.*)

■ **mega-church** A large, specialized type of house of worship that includes such nontraditional accessory uses as retail sales, residential uses, amusement parks, and sports and entertainment facilities, as an integrated part of the development. (*Los Ranchos de Albuquerque, N. Mex.*)

■ **teardown** The construction or remodeling of single-family homes to the maximum allowable size permitted by land-use and zoning regulation in neighborhoods distinctly characterized by considerably smaller homes. (*Glendale, Calif.*)

■ **urban design** The process of giving form to ensembles of structures, to whole neighborhoods, or to the city at least. Urban design is a blending of architecture and city planning in an effort to make an urban area comprehensive, functional, and aesthetic through the articulation of its parts. (*Prince George's County, Md.*)

10 divisions in the SIC) and the 20 categories are then subdivided into three-, four-, five-, and six-digit use categories. A total of 1,170 industries and business activities are identified.

NAICS can be used by planners to develop various land-use categories and identify changes of use. The zoning ordinance could identify specific NAICS business sectors or sub-sectors as permitted uses in appropriate zones and exclude them where not appropriate. The local ordinance would still control the intensity of development through the bulk regulations.

Words should be defined within the context of the legislative intent of the zone district and other uses permitted in the

district. For example, residential zone districts often include home professional offices as principal permitted uses along with primary residences. These districts are not appropriate for professional office buildings because their legislative intent is residential.

Legal and technical input is necessary in preparing definitions for development ordinances. Legal review is needed to ensure that definitions do not run afoul of state or federal laws or run counter to court decisions. Engineering, architectural, and environmental review is needed for definitions encompassing those fields.

Keep a record. When reviewing or revising the land development ordinance, it is important to have a notebook record of definitions that seem ambiguous or subject to conflicting interpretations in practice. Planners should be watchful of other municipalities' ordinances and good definitions within them. Keeping notes also means staying current as new names are applied to old standards identifying emerging trends, changing functions, or cultural transformations (e.g., mega-churches, megaplexes (multiscreen movie houses), the range of new retail operations such as big-box retailers and category killers, or even financial services centers—known previously as check-cashing establishments).

As we noted in the two previous editions of *The Illustrated Book of Development Definitions* (with the third edition due for publication in early 2004), many of the definitions came from articles in *Planning*, *Land-Use Law and Zoning Digest*, *Zoning News*, and Planning Advisory Service publications. In our opinion, regular perusal of these publications is the best way to stay current.

For a complimentary copy of the list of terms from *A Planners Dictionary* (PAS Advisory Service Report No. 518/519), contact Michael Davidson, Editor, *Zoning News*, American Planning Association, 122 South Michigan Avenue, Suite 1600, Chicago, IL 60603, or send an e-mail to mdavidson@planning.org.

ZONING Reports

Opening the Door to Inclusionary Housing

Mary Anderson. *Business and Professional People for the Public Interest*. 2003. 112 pp. Available online at www.bpichicago.org.

This is one of the best, most readable overviews of zoning and monetary incentive mechanisms for promoting affordable housing that has been produced in a while. The manual consists of two parts, one focusing on the nuts and bolts of the development process, who benefits from the program, the means of sustaining affordable housing over the long term, and legal issues. The second half of the report focuses on twelve case studies from across the U.S., examining both successes and shortcomings of each program.

Raising a Stink: The Struggle over Factory Hog Farms in Nebraska

Carolyn Johnsen. *University of Nebraska Press, 233 North 8th Street, Lincoln, NE 68588*. 2003. 192 pp. \$21.95.

As one might suspect, this book is about far more than zoning. But much of it *is* about zoning, necessarily, because of the politics of agriculture in Nebraska. Unlike many other midwestern states, Nebraska has long endowed its counties with zoning powers that do not exempt agriculture from land-use regulations. Still, until concentrated animal feeding operations appeared on the scene in the 1990s, fewer than one-third of the state's 93 counties had used their zoning powers; with most preferring a conservative, rural stance that distrusted such regulation. *Raising a Stink* tells the story of the massive political confrontations that followed, eventually causing all but three counties to adopt planning and zoning regulations to address the issue, with one major court case from Holt County causing the state supreme court to side with counties when their powers were challenged by a prominent hog operator (see "Nebraska Supreme Court Upholds CAFO Zoning," May 2002).

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